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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re)
)
Amendment of Service and Eligibility Rules for) MB Docket No. 07-172
FM Broadcast Translator Stations) RM-11338

To: The Office of the Secretary,
for the Attention of the Chief, Audio Division, Media Bureau

COMMENTS

Talley Broadcasting Corporation (*TBC*), by its communications counsel, hereby files its Comments in response to the Notice of Proposed Rule Making in this proceeding, 22 FCC Red 62616, 72 Fed. Reg. 62616 (2007) (the NPRM).

I. BACKGROUND

1. The NPRM proposes to amend the Commission's Rules so as to allow the licensee of an AM broadcast station to operate an FM translator station, with the AM station serving as the primary station for the FM translator. The NPRM proposes to allow such an arrangement so long as no portion of the 60-dBμ service contour of the FM translator extends beyond the lesser of:

- the 2-mV/m daytime contour of the AM primary station; or
- 25 miles from the AM primary station's transmitter site.

Also, the NPRM proposes to allow the licensees of daytime-only AM broadcast stations to operate FM translator stations during nighttime hours, after the primary station itself has left the

air in accord with the terms of its license. The NPRM also asks various questions relating to the fundamental concept of AM stations serving as primary stations for FM translators.

2. TBC is filing these Comments to provide the Commission with TBC's perspective on these issues. TBC has been the licensee of radio station WSMI(AM), Litchfield, Illinois, FCC Facility ID No. 64565. Litchfield is a small community in Montgomery County, in the rural south-central portion of the State of Illinois. Litchfield's 2000 Census population is 6,815. TBC has been the licensee of WSMI since 1950. The Commission has licensed WSMI to operate on 1540 kHz with 1 kilowatt of transmitter output power, daytime only. Therefore, TBC has nearly six decades of experience as the licensee of a small-market daytime-only FM station.¹ As a result of that experience, TBC can attest that the realities of the aural marketplace require that daytime-only stations be attuned to the demographics and the social needs of their communities of license and to provide locally oriented programming. TBC itself has devoted substantial resources over the years to ensuring that the residents of Litchfield and the surrounding area identify with the station and view it as a source of information that is important to them.

II. COMMENTS

A. THE COMMISSION SHOULD EXPEDITIOUSLY AUTHORIZE DAYTIME-ONLY STATIONS TO USE FM TRANSLATORS

3. TBC strongly supports the Commission's proposal to allow the licensee of day-time only AM stations to own and to operate FM translator stations and to use their AM facilities as

¹In the late 1980s, the Commission notified TBC that TBC could operate WSMI with a nighttime transmitter-output power of one watt. However, because of technical issues associated with operating at so very low an output power on a secondary basis, and because of the minimal interference-free service that would result, TBC did not avail itself of that grant of authority.

the primary stations for such translators. TBC has seen much change in the nearly 58 years that it has operated WSMI. The AM band is much more congested than it previously was, and FM has, in most settings, become the dominant aural medium. New technologies for delivering aural programming that were only the stuff of science fiction — satellite-delivered programming, Internet streaming — are making their presence felt. However, as the NPRM recognizes, AM still has a valuable role to play in serving the public. AM has the benefits of ubiquity and simplicity. Receiving equipment is available at very low cost, no subscription fees are levied for programming, and the medium is robust. Many AM stations have emergency power generators, and almost every household owns at least one battery-powered AM receiver.

4. South-Central Illinois, like many parts of the country, can experience severe weather... powerful snow and ice storms, tornados, etc. AM can get through, e.g., when dial-up internet access is unavailable because telephone lines are down, when computers and television receivers don't work because power lines are down, when heavy precipitation interferes with satellite Internet access, etc., etc. In such situations, AM stations can be one of the very few -- perhaps the only -- medium by which the public can receive emergency information from the authorities. However, if such problems strike during nighttime hours, AM daytimers are currently not able to serve their audiences. For substantial portions of the year, daytimers such as WSMI have to leave the air as early as 4:30 or 5 o'clock, and are not able to return to the air until 7:00 or 7:30 the next morning. During those long periods of darkness, significant portions of the listening public, expecially in rural areas, can be bereft of broadcast service in the event of severe weather or other natural or man-made disasters.

5. The Commission can and should rectify this situation by adopting its proposal and authorizing AM daytime-only stations to operate FM translators.

6. TBC is sympathetic to the challenges that full-time AM licensees face, but first and foremost, the Commission should provide relief to daytime-only licensees. The licensees of Class A and high-power, full-time Class B stations enjoy substantial interference-free nighttime service contours. They face nowhere near the pressures that daytimers face. If the Commission were to allow the licensees of such powerful facilities to obtain FM translators, they might well crowd the daytimers out. The end result could well be that those who need help the least would get a substantial boost, while those who need help the most do not get anything at all, or precious little at best.

7. TBC suggests that the Commission conduct computer-based analyses and to provide each daytimer with at least one FM translator authorization so as to replicate, to the extent possible, the station's licensed daytime service area. This would be in keeping with past approaches followed with respect to wireline cellular authorizations, secondary nighttime authorizations on the AM band, awards of the expanded-band AM frequencies, and — most recently — DTV assignments. Such an approach would ensure targeted and expedited relief to those in dire need. The Commission should award such authorizations on its own motion, or should open a filing window where eligibility is limited to daytime-only stations. Otherwise, if daytimers need to wait until the next general FM Translator filing window, relief will be too little, too late. Daytimers will likely end up mutually exclusive with other applicants, and will have to compete at auction for translator authorizations. Because daytimers often have limited means,

many would likely have to drop out of the bidding, or if they persevered, would see their resources depleted by the ensuing bidding wars.

8. TBC suggests that, in awarding authorizations, the Commission first concentrate on low-power daytimers.... licensees whose facilities are 1,000 watts or less. After these licensees have been awarded authorizations, the FCC can look to providing authorizations to the licensees of higher-power daytime-only facilities. Alternatively, the FCC should award one translator authorization to each daytimer, and after all daytimers have received authorizations, licensees with more extensive daytime-only facilities can seek authorizations for one or more additional translators to replicate other portions of their primary daytime service areas.

9. The Commission's proposal to restrict such a translator's primary service contour to the AM primary station's 2-mV/m daytime contour or to within 25 miles of the AM primary station's transmitter site is a reasonable one, and administratively simple to implement. The Commission should adopt it and require AM licensees seeking translator authorizations to provide the Commission with a technical showing of compliance with this requirement. Because ground conductivities can vary significantly from M3 values, the FCC should allow licensees to provide supplementary showings, based on measured ground conductivities, to demonstrate compliance with the 60-dBμ-contour restriction. A *de minimis* overage of 10% of the distance from the AM antenna to the contour location on any particular bearing will provide needed flexibility in choosing a transmitter site or a directional antenna (or both) for the FM translator.

10. TBC does not think that it is wise to allow AM licensees to broker time on FM translator facilities held by third parties, at least not FM translator facilities that have yet to be authorized. TBC says this because allowing such an arrangement will simply encourage a gold-

rush mentality in the next FM translator filing window, and a huge influx in applications. The result will be huge MX groups, heavy processing burdens on the Commission's staff, and delays in granting authorizations.

11. It is certainly appropriate to allow Daytime-only stations to operate FM translators as a fill-in service during the hours between sunset and sunrise. The Commission has already allowed many of those stations to operate with secondary AM facilities. Many, like TBC, have not done so due to the extremely low power levels involved, the associated technical challenges, and the limited interference-free service areas. Others have availed themselves of such secondary authorizations, but end up serving severely constricted interference-free areas. Daytime-only stations will naturally employ FM facilities to duplicate or to continue their daytime programming streams, just as some of them use secondary AM facilities. Daytimers seek to serve their communities, and their audiences desire continuity in service. There is no public-interest detriment to allowing such use of FM translators.

12. The suggestion that Daytime-only stations be eligible to apply for LPFM authorizations, and to use such facilities to simulcast or to continue broadcast service also has merit — for reasons similar to what TBC has set forth above.

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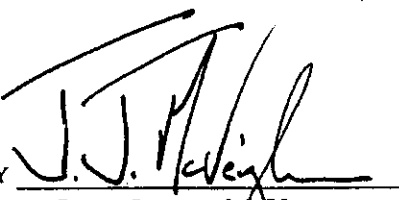
III. CONCLUSION

13. For all of the above reasons, the staff should promptly issue a Report and Order implementing its proposal and authorizing AM daytime-only licensees to construct and operate FM translators to supplement their licensed main facilities.

Respectfully submitted,

TALLEY BROADCASTING CORPORATION

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